

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NORTH CAROLINA  
ASHEVILLE DIVISION  
DOCKET NO. 1:16-cv-00361-MOC

BRENDA L. LIVESAY, )  
 )  
 Appellant, )  
 )  
 Vs. ) ORDER  
 )  
 LANGDON M. COOPER, TRUSTEE, *et al.*, )  
 )  
 Appellees. )

**THIS MATTER** is before the court on review of the Memorandum submitted by the Clerk of the Bankruptcy Court to the Clerk of this Court indicating that appellant has failed to “pay the required filing fee due for the 2<sup>nd</sup> order appealed pursuant to 28 U.S.C. Section 1930.” Clerk’s Memo (#6) at 1. Appellant has responded, stating as follows:

The memorandum inaccurately asserts that the appellant failed to file the filing fee in connection with the notice of appeal which is the subject of the above styl[ed] case. In fact the \$298 was paid on November 4, 2016, as is reflected in the docket sheet of this adversary proceeding.

Response (#7) at 1-2. There is no dispute that appellant paid the filing fee for her appeal of the first Order of the Bankruptcy Court; however, read in context, the memorandum requesting judicial action advised that appellant failed to pay the *second* filing fee of \$298 required for appealing the second Order of the Bankruptcy Court. Contextually, appellant was earlier advised by the Clerk of the Bankruptcy Court of the requirement of a second filing fee, as follows:

The filing fee submitted to the Court on November 4, 2016 will be applied to the first order referenced in your notice of appeal. Please submit the filing fee in the amount of \$298.00 for the second order referenced in your notice of appeal.

Notice to Appellant (#76), In re: CEI, LLC, No. 13-01019 (WDNC-Br Nov. 7, 2016).

While the paying of multiple filing fees for what is essentially one appellate action may be unfamiliar to those accustomed to appealing decisions of a district judge to a circuit court of appeals and paying one fee regardless of the issues raised, the Judicial Conference of the United States has deemed it appropriate to impose a filing fee on those seeking review of Bankruptcy Court decisions on a per order basis. Specifically, 28 U.S.C. § 1930(b) provides that the “Judicial Conference of the United States may prescribe additional fees in cases under title 11 of the same kind as the Judicial Conference prescribes under section 1914(b) of this title.” Section 1914(b) provides that the “[bankruptcy] clerk shall collect from the parties such additional fees only as are prescribed by the Judicial Conference of the United States.” The Judicial Conference, in turn, has provided for the collection of a filing fee “[f]or filing an appeal or cross appeal from a judgment, order, or decree, [of] \$293. This fee is collected in addition to the statutory fee of \$5 that is collected under 28 U.S.C. § 1930 (c) when a notice of appeal is filed.” Bankruptcy Court Miscellaneous Fee Schedule (Dec. 1, 2016).<sup>1</sup>

As appellant’s Notice of Appeal (#1) challenges *two* Orders of the Bankruptcy Court, see (#1-1 and #1-2) appellant owes the Bankruptcy Court a *second* fee of \$298. If appellant is financially unable to pay this second fee, she may make application either to this court or to the Bankruptcy Court for a waiver. 28 U.S.C. § 1930(f)(1).

## ORDER

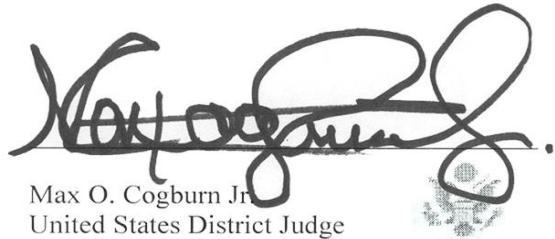
**IT IS, THEREFORE, ORDERED** that not later than February 3, 2017, appellant shall either pay the second filing fee of \$298.00 or make application to either the Bankruptcy Court or

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1 <http://www.uscourts.gov/services-forms/fees/bankruptcy-court-miscellaneous-fee-schedule>.

this court for waiver of such fee as provided under Section 1930(f)(1). Forms for seeking *in forma pauperis* status are available from the Clerk of Court.

Signed: January 24, 2017



A handwritten signature in black ink, appearing to read "Max O. Cogburn Jr.". The signature is fluid and cursive, with a small "Jr." at the end.

Max O. Cogburn Jr.  
United States District Judge